

From: [Hauge, Paul M.](#)
To: [Yacovone, Krista](#)
Cc: [Otero, Camille V.](#); [Hatfield, William S.](#); [Arnold, Adam C.](#)
Subject: Re: FOIA Request EPA-R2-2017-003521
Date: Friday, May 11, 2018 11:09:42 AM
Attachments: [ATT00001.txt](#)

Krista:

We withdraw the above-listed FOIA request only as it relates to the four categories of documents listed at the end of your April 30 e-mail. We reserve the right to renew our request for those documents via a separate FOIA request. Please produce all other documents responsive to the above-listed FOIA request at your earliest convenience. Thank you.

Paul Hauge

Sent from my iPhone

On Apr 30, 2018, at 2:31 PM, Yacovone, Krista <yacovone.krista@epa.gov> wrote:

Paul,

Yes, that is correct. Here is a summary of the interplay between your office's two FOIA requests, EPA-R2-2016-007137 & EPA-R2-2017-003521, and EPA's current request to you regarding EPA-R2-2017-003521:

Your office's prior FOIA request (EPA-R2-2016-007137) sought "all documents submitted by, or on behalf of, G-I Holdings Inc. or its related entities in response to EPA's [January 21,] 2016 Request for Information (including any supplemental or amended request) concerning the LCP Chemicals, Inc. Superfund Site in Linden, New Jersey." On April 6, 2016, G-I Holdings submitted its response to EPA's January 21, 2016 Request for Information, which included a 2-page cover letter, a 13-page "Responses and Objections" document, a 1-page Certification of Answers, and two sets of enclosures: (i) Addendums A (8 pages) & B (15 pages); and (ii) documents bates numbered G-I_EPA0000001 through G-I_EPA0021858. At the time G-I Holdings submitted its April 6th response, G-I Holdings asserted a claim of confidentiality over the information contained in Addendums A & B and documents bates numbered G-I_EPA0000369 through G-I_EPA0007017.

As mentioned in my March 2, 2017 email (attached), EPA issued a partial approval/partial denial letter to Adam Arnold on June 30, 2016, pursuant to which EPA produced the following records responsive to FOIA request EPA-R2-2016-007137: the 2-page cover letter, the 13-page "Responses and Objections" document, the 1-page Certification of Answers, and documents bates numbered G-I_EPA0000001 through G-I_EPA0000368, G-I_EPA0006752 through G-I_EPA0006778, and G-I_EPA0007018 through G-I_EPA0021858. (Note that G-I Holdings withdrew its claim of confidentiality over documents G-I_EPA0006752 through G-I_EPA0006778 because those documents

are publicly available and were produced at G-I_EPA00000213 through G-I_EPA00000239.) The responsive records were uploaded to FOIAonline. The only responsive records that were withheld pursuant to the partial approval/partial denial letter were those responsive records containing information over which G-I Holdings asserted a claim of confidentiality: (i) Addendums A & B; (ii) documents G-I_EPA0000369 through G-I_EPA0006751; and (iii) documents G-I_EPA0006779 through G-I_EPA0007017.

EPA then began the confidential business information ("CBI") review process under 40 C.F.R. Part 2, Subpart B, pursuant to which EPA sent a CBI substantiation letter to G-I Holdings asking it to substantiate the above-referenced claims of confidentiality. G-I Holdings responded by letter dated July 22, 2016, over which it also claimed confidentiality because it discusses the grounds upon which G-I Holdings claimed confidentiality over the information contained in: (i) Addendums A & B; (ii) documents G-I_EPA0000369 through G-I_EPA0006751; and (iii) documents G-I_EPA0006779 through G-I_EPA0007017. The July 22, 2016 letter is 19 pages, and included Exhibits 1 (12 pages) & 2 (28 pages). Exhibits 1 & 2 are public court filings and are available at: (i) In re G-I Holdings Inc., Case No. 01-30135 (RG) (Bankr. D.N.J.), Doc. No. 8735; and (ii) Ashland, Inc. v. The Samuel J. Heyman 1981 Continuing Trust for Lazarus S. Heyman, Case No. N15C-10-176 (EMD) (Del. Super. Ct.), Doc. No. 117.

Before EPA issued its final confidentiality determination, by email dated March 28, 2017 (attached), Camille Otero of your office withdrew FOIA request EPA-R2-2016-007137. Pursuant to 40 C.F.R. § 2.205, EPA was not required to make a final confidentiality determination after withdrawal of the request seeking information claimed to be CBI. However, records responsive to your current outstanding FOIA request EPA-R2-2016-003521 include the same information which G-I Holdings has claimed to be confidential, again triggering a requirement that EPA employ the CBI substantiation process and issue a final confidentiality determination. This information is contained in: (i) Addendums A & B; (ii) documents G-I_EPA0000369 through G-I_EPA0006751; (iii) documents G-I_EPA0006779 through G-I_EPA0007017; and (iv) G-I Holdings' 19-page July 22, 2016 CBI substantiation letter. If you do not withdraw the portion of FOIA request EPA-R2-2016-003521 relating to these documents, EPA will be obligated to again enter the CBI substantiation process and issue a final confidentiality determination, which will take additional time.

Hopefully this answers your questions. Please advise how you would like to proceed.

Thanks,

Krista

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Krista E. Yacovone
Assistant Regional Counsel

Office of Regional Counsel
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(212) 637-3095

From: Hauge, Paul M. [<mailto:PHauge@gibbonslaw.com>]
Sent: Monday, April 30, 2018 1:43 PM
To: Yacovone, Krista <yacovone.krista@epa.gov>
Subject: RE: FOIA Request EPA-R2-2017-003521

Krista:

Following up on my e-mail below, with a slight correction – your March 2, 2017 e-mail seems to indicate that EPA withheld (as opposed to producing) 6,622 pages, i.e., that EPA produced 15,236 pages.

Thanks again.

Paul M. Hauge, Esq.
Counsel, Environmental Law Department
GIBBONS P.C.
(973) 596-4471

From: Hauge, Paul M.
Sent: Friday, April 27, 2018 3:04 PM
To: Yacovone, Krista
Subject: RE: FOIA Request EPA-R2-2017-003521

Krista:

Apologies for the delay, but I need some clarification as to a couple of aspects of your e-mail. As I understand it, the documents covered by our prior FOIA request (EPA-R2-2016-007137), including, by definition all documents over which G-I asserted a claim of confidentiality, all fell within the Bates range G-I_EPA0000001 to G-I_EPA0021858. We are still checking our records to confirm that we have received that entire range of pages, whether from EPA or from G-I. Do you have a record of which Bates pages EPA produced to us? An e-mail from you dated March 2, 2017 notes that of the 21,858 pages, EPA produced 6,622 pages (G-I_EPA0000369 to G-I_EPA0006751 and G-I_EPA0006779 to G-I_EPA0007017).

The second item in your e-mail (the July 22, 2016 letter, including Exhibits 1-2) evidently falls outside of the above-referenced Bates range. Therefore, it would not have been produced in response to the FOIA Request EPA-R2-2016-007137, either by EPA or by G-I. Has G-I asserted a new claim of confidentiality over this document, in

connection with our more recent FOIA request (EPA-R2-2017-003521)? How many pages does it cover?

Thanks.

Paul M. Hauge, Esq.

Counsel, Environmental Law Department

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From: Yacovone, Krista [<mailto:yacovone.krista@epa.gov>]

Sent: Tuesday, April 17, 2018 3:41 PM

To: Hauge, Paul M.

Subject: FOIA Request EPA-R2-2017-003521

Paul,

This is to confirm our telephone conversation earlier today, during which you agreed to consult your client regarding withdrawal of a portion of your Freedom of Information Act (FOIA) Request No. EPA-R2-2017-003521 in light of the likelihood that you and/or your client already have the documents we discussed. If your client concurs, you would withdraw FOIA Request No. EPA-R2-2017-003521 as it relates only to the following communications from Andrew J. Rossman, Esq. of Quinn Emanuel Urquhart & Sullivan LLP on behalf of G-I Holdings Inc. to the U.S. Environmental Protection Agency: (1) the April 6, 2016 letter, including Addendums A & B as well as all enclosed documents bates numbered 00001-21858; and (2) the July 22, 2016 letter, including Exhibits 1-2.

Please let me know how to proceed.

Thank you,

Krista

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